

Distribution legislation watered down

TORONTO – While Canada's big players welcomed the money that new federal legislation will pump into distribution and production, reaction from the smaller distributors was more reserved.

Communications Minister Flora MacDonald chose the 40th anniversary celebration of the Canadian Film and Television Association, a group composed mostly of producers, to announce a watered-down version of the long-awaited bill. The legislation that was originally proposed in February 1987 would have insisted that Canadian companies distribute independently-produced international films in Canada, rather than having those rights fall to the American distributor that bought the rights for the United States, including Canada as part of the domestic market.

But the bill MacDonald announced in May only gives Canadian distributors the right to bid against the larger American companies, and provides them with \$17 million each year for the next five years, administered by Telefilm Canada, to make those bids competitive.

Though the announcement was cheered in the festive atmosphere of the CFTA anniversary, distributors are now wondering how the bill will work in practice. Criteria for accessing the new money have yet to be announced.

"We want it to be as simple as possible," says Daniel Weinzweig of Norstar Releasing. "We want to ensure that Telefilm itself, internally, is sensitive to the needs of the distribution community, which previously it had not been. We want the funds to be administered as democratically as possible between the companies – this isn't a fund for Cineplex Odeon or Norstar. It's not money to be just thrown around and then disappear."

Despite uncertainty about how the bill will work in the complex distribution world, Weinzweig is generally optimistic.

"It's certainly not what we'd hoped for, but this particular piece of legislation may be more realistically drafted. . . It establishes the fundamental principle of the separation of territory, and the identification of Canada as a separate and distinct territory for the purchase of (distribution) rights. We've never had that so we don't really know if it'll work until it's in practice.

"My personal feeling is that the short-term effects in terms of the acquisition of new pictures will be minimal. But the long-term impact will be significant. People around the world will get used to the idea that Canada is a separate market, that Canadian distributors are

well-armed and well-financed and have the ability to distribute these important pictures."

Creative Exposure's Ron McLuskey isn't willing to say whether small distributors will gain by the bill.

"In theory, probably yes. In practice, it's hard to say until we get a clearer picture of what it means, both financially and logistically.

"It made the larger companies bigger and stronger and able to compete for more high-profile films, we could possibly then get access to some films they may not have time for."

"In terms of generating production, it'll probably be okay," says Isme Bennie, president of Paragon International, largely a sales agent for television programming. "In terms of assistance to distributors to acquire rights, I'm still iffy on that. I'm not sure I want to see it happen.

"Even with that fund available to Canadian distributors to acquire rights for Canada, can they compete? It sounds fine in theory; let's see if it can happen."

In addition to the \$85 million aimed at helping distributors, MacDonald also announced \$60 million to be spent on production and \$15 million on subtitling and dubbing films over the next five years, both funds to be administered by Telefilm. Also, the National Film Board will be allocated an additional \$25 million to co-produce feature films with independent producers. And Supply and Services Canada, through its Film and Video branch, will be given \$10 million, also over five years, to go into non-theatrical film production. Finally, a new Film Products Importation Office will be set up at a cost of \$5 million over five years to "administer the proposed legislation regulating the importation of film products into Canada." In all, the programs will cost \$200 million.

Asked whether this legislation will be passed before the next election, MacDonald replied "You bet it will! It's a priority."

Reaction to policy lukewarm in Quebec

MONTREAL – Quebec distributors are taking a wait-and-see approach to the Canadian Film Distribution Policy, announced May 5 by Communications minister Flora MacDonald.

The proposed legislation has been given a lukewarm reception by Quebec-based distributors, according to André Link, president of the Association Québécoise des distributeurs et exportateurs de films et de vidéo (AQDEFV).

"The overall reaction is rather positive on the

whole but we are waiting to read the fine print in the legislation," says Link. "It is a first step in the right direction."

Link welcomes the formation of the Film Products Importation Office by Communications Canada to govern the importation of proprietary and non-proprietary film products. "If this system is applied according to the spirit of the law then we are in effect clearly defining Canada as a separate territory."

Time will tell, says Link, whether the system is circumvented or not.

Marie-José Raymond, president of Rose Films and an executive member of the Association des producteurs de films et de vidéo du Québec (APFVQ), says the distribution policy is a toothless version of the original policy introduced in February 1986.

According to the 1986 policy, Canadian distributors were automatically given domestic rights to properties not owned by the major studios. This, says Raymond who co-authored a federal government task force report on the Canadian film industry, would have undermined section 2005 of the free trade agreement. "It has been obvious for a long time that the federal government would not do anything that would bring retaliation," says Raymond.

Under the proposed system of proprietary and non-proprietary films, it is business as usual for the U.S. major studios and their proprietary film product (see story). Where non-proprietary product is concerned, legislation will require that the importer demonstrate that the rights for Canada were acquired under a separate agreement for a separate fee; and without considerations for any other market.

Raymond commends the policy for at least acknowledging a separate Canadian market in which a Canadian contract is required and in which Canadian distributors will bid on non-proprietary films with the support of a new five year \$85 million Film Distribution Fund. However, she adds: "I don't believe the fund is strong (competitive) enough and one has to ask, do we want taxpayers' money to purchase foreign films?"

Another \$115 million, to be administered by Telefilm Canada, the National Film Board and the Film and Video Program of Supply and Services Canada, will be set aside for culturally significant films, regional films, non-theatrical films and French-language productions. Raymond says she is perplexed as to why this money is being parceled out when Telefilm Canada has been established as a central funding agency.

"I am hoping that it is not opening the door to patronage which is the sort of problem we've had in the past with this government," says Raymond.

Production down as writers strike

VANCOUVER – The Writers' Guild strike in the United States is already affecting fall season programming for Cannell Productions, according to Lisa Lewinson, Cannell's vice-president of publicity.

The production company, which shoots such programs as the series *21 Jump Street* in Vancouver, would normally be well into pre-production at this time of year.

Instead, they are laying people off and hoping for progress soon in the almost three-month-long dispute some producers estimate has cost the industry more than \$15 million.

"All we can do is wait," said Lewinson. "It will probably take at least six weeks to gear up for production from the day the strike ends. So, at this point, it looks like it will probably affect the next season."

She said all productions for this season had already completed normal scheduling before the strike.

Cannell does not yet have a contingency plan should the dispute continue into the summer.

Lewinson added that they would not likely use Canadian or other writers since studio head Stephen Cannell is himself a member of the guild.

MacGyver, another American series produced in Vancouver, has also not yet been affected.

Producers there are waiting to hear whether they will be picked up next season by ABC and can't say until then what consequences the strike will have for them.

Quebec funding grossly inadequate

Lobby exerts pressure

MONTREAL – Télécopro Inc., an association of several Quebec-based television production companies, has thrown its considerable weight behind what is becoming an industry-wide demand for increased television production funding from the Quebec government.

A letter has been sent to Premier Robert Bourassa and key ministers stating an urgent need for the establishment of a \$6 million television fund.

This fund, they say, would help to assure a higher rate of employment and preserve the reputation of the Quebec production industry in French-language world markets.

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The Télécopro Inc. letter echoes the concerns of Rock Demers and several industry representatives who called a press conference in April to show their disapproval of a five per cent increase in provincial government budget allocations for cultural industries.

Representatives at the press conference said the \$11 million for film and television was not enough to counter the rising cost of production and compensate for a sharp reduction in the provincial and federal government tax shelters. (Since this press conference, Quebec has again increased its tax shelter for film and video.)

Télécopro Inc. is comprised of Rose Films Inc., S. D. A. Ltée., Téléscène Inc., Verseau Inc. and Via le Monde Inc.

Tax shelter increased

MONTREAL - The tax shelter increase in Quebec's provincial budget, tabled May 12, will do in a pinch, says Aimée Danis, president of Les Productions du Verseau Inc.

Danis, one of the organizers of Télécopro Inc., says an increase in the tax shelter allowance for Quebec-made film and television is, nevertheless, a sorry substitute for a television fund.

However, she says it will help the industry and hopefully bring investors on side.

In an attempt to encourage investments in Quebec's film and television industry, the government has raised the deduction on investments in the Quebec Stock Savings Plan to 166.6 per cent from 133.3 per cent.

"The federal Capital Cost Allowance (CCA) combined with this could make it livable for us," says Danis.

Quebec Finance minister Gérard D. Lévesque reduced the QSSP in December 1986 from 150 per cent to 100 per cent. An increase to 133.3 per cent was announced in the wake of a federal government White Paper, June 18, 1987, which proposed to reduce the federal CCA to 30 per cent, where it sits today.

Due to its limited market size, the Quebec-based film and television industry is far more dependent on private investment than the larger English-language market.

Independent Pictures in limbo

TORONTO - On March 31, producer Peter O'Brian shut down preproduction on *Hollywood North* and laid off staff. Thinking back on "the horror" of dealing with Telefilm Canada since last fall, he contemplated the damages: the derailment of what had been one of the more promising production companies by its principal financial partner, the federal funding agency.

O'Brian's company, Independent Pictures, is probably the most high-profile company to be seriously harmed by the financial and administrative disarray at TFC, but is certainly not the only one. The immediate victim is its feature, *Hollywood North*, which had the enthusiastic backing of the Ontario Film Development Corp. and which had been approved by TFC's Operations branch last July. O'Brian is now working to secure the survival of his company, hoping that it will not also become a victim of TFC's inertia.

Over the last three years, O'Brian had TFC's encouragement to "go for it"; former executive director Peter Pearson had been supportive of the idea that Independent should aim to produce two or three features a year - original, Canadian material. With a track record which included *The Grey Fox*, *My American Cousin*, *John and the Missus* and *One Magic Christmas*, the encouragement seemed warranted. Having received development money from TFC, O'Brian had understood that the agency "would be there in strength when it came time to sit down at the table and finance these things."

As *Hollywood North* moved from creative approval in Operations to Business Affairs, TFC made its October 1987 announcement of financial over-commitment and O'Brian and his project began a six-month stint in limbo.

"Senior management couldn't discuss the rules," he told *Cinema Canada*. Having begun to negotiate with Neil Court and then with Linda Beath, O'Brian wound up with Judy Watt: three officers in six months, all handicapped by the administrative confusion surrounding Pearson's withdrawal from the agency.

"No one was in charge," O'Brian explained. Despite denials from the former chairman of the Board of interference in the daily functioning of the agency, O'Brian understands that Jean Sirois was an important factor in the slowing down of the administrative process. "The head of Business Affairs for English Canada couldn't make a decision without calling the part-time, political appointee, chairman of the Board. It was ludicrous. This was last November, before Michèle Fortin was in."

Meanwhile, O'Brian refinanced the project twice, trying to maintain the momentum necessary to its production. But with TFC "sinking into a torpor," the situation became untenable and O'Brian finally had to cancel the production in March.

At Business Affairs, O'Brian recognizes certain problems with the production and admits that not everyone was crazy about the script. But approval had been given in Operations, and the details should have been worked out. As it was, the staffers on hand in March were very legalistic, O'Brian reports, and decisions just weren't forthcoming. While TFC was "technically blameless," according to O'Brian, the agency bears a moral responsibility.

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